

January 27, 2021

Mr. John Canoles
Eco-Science Professionals Inc.
P O Box 5006
Glen Arm MD 21057

Re: The Preserve at Perry Hall, 4410 Forge Rd. Perry Hall 21128
Forest Conservation Variance
Tracking # 05-20-3339

Dear Mr. Canoles:

The Baltimore County Department of Environmental Protection and Sustainability (EPS) has completed a review of a request for a variance from the Baltimore County Forest Conservation Law for the above referenced property. The variance request proposes to remove 9 specimen trees (4 30-30.5-inch diameter *Quercus alba* in fair to poor condition, 2 33-inch *Quercus velutina* in fair to poor condition, 1 33.5-inch *Quercus rubra*, 1 32.75-inch *Quercus palustris* in good condition, 1 31-inch *Metasequoia glyptostroboides* in good condition) in order to construct a 46-lot residential subdivision and the associated infrastructure. Seven of the trees are located within a 0.5-acre moderate priority forest while the others are in open field or hedgerows. None of these trees are within forest buffers, streams, wetlands, or 100-year floodplain areas.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The petitioner would not be deprived of all beneficial use of the property if the requirement from which they seek a variance were imposed as the site could be developed without the requested variance. Therefore, this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The variance request arises because of the location of the specimen trees in relation to the development layout and required grading. Because of this, the request is based on these unique conditions of the property, and not from general conditions of the neighborhood. Therefore, this criterion has been met.

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The third criterion (Subsection 33-6-116 (d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property is located adjacent to other single family dwelling subdivisions and commercial development along Honeygo Blvd. and Belair Rd. Also, the forest buffer on-site will be reforested and retained in protective easement like other buffer and forest areas in nearby subdivisions. Based on this, this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The specimen trees to be removed are not located in required forest buffer areas. In addition, reforestation requirements and specimen tree mitigation will be maximized on-site with reforestation of the required forest buffer. If necessary, additional mitigation may be provided at an approved off-site forest planting area. Also, stormwater management is being provided for the development in accordance with current County regulations. Based on this, water quality will not be adversely impacted, and this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance, which is the result of actions taken by the petitioner. This request is based on the location of the specimen trees in relation to the required forest buffer and the site layout. There has been no work conducted on the property that would have required this request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Baltimore County Code Article 33, Title 6 Forest Conservation. The development must meet all forest conservation requirements, including specimen tree mitigation. The reforestation and mitigation requirements will be maximized on-site with any additional reforestation provided at an approved off-site location. Therefore, this criterion has been met.

Based upon our review of the current layout, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. Meeting forest conservation requirements for the area of forest cleared will provide the mitigation for the majority of the specimen trees to be removed. Additional reforestation (1,894 square feet), will be required to mitigate for the *Quercus palustris*. A Forest Conservation Plan for this project must be approved prior to grading permit approval.
2. On all project plans, label specimen trees as “retain” or “remove” and add the following note:

A forest conservation special variance was granted by Baltimore County Department of Environmental Protection and Sustainability on January 27, 2021 to allow for the removal of

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9 specimen trees on this project site. Mitigation was provided by meeting all forest conservation requirements as outlined on the forest conservation plan for the project, including additional reforestation of 1,894 square feet. If any specimen tree shown on the plan "to remain" is proposed to be removed, special variance approval or written authorization must first be obtained from the Department of Environmental Protection & Sustainability.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner and contract purchaser sign the statement at the end of this letter and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Paul Dennis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/pad

c: Marian Honeczy MDDNR

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County Forest Conservation Law.

Property Owner Signature	Date	Printed Name of Property Owner
Contract Purchaser Signature	Date	Printed Name of Contract Purchaser